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Paper No. 6

THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224

In re Application of Carlucci, et al. Application No. 09/862,815 Filed: May 22, 2001 Attorney Docket No. CM2353

DECISION ON PETITION

This is a decision on the petition filed March 18, 2002, to revive the above-identified application under 37 CFR 1.137(b).

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The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Application mailed July 19, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on September 20, 2001. The instant petition precedes the mailing of a Notice of Abandonment.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). Accompanying the instant petition were new declarations signed in combination by all of the joint inventors; and the surcharge for late filing of the declaration under 37 CFR 1.16(e), the replies requested in the above-identified notice. Petitioner also submitted the petition fee and made the required statement of unintentional delay.

Petitioner also submitted a request for extension for response within the fifth month (and fee). An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPO2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1,960.00 extension of time submitted with the petition on March 18, 2002 was subsequent to the maximum extendable period for reply, this fee cannot be accepted and will be credited to petitioner's deposit account, as authorized.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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Office of Petitions
Office of the Deputy Commissioner for Patent Examination Policy